

## HUMAN SERVICES DEPARTMENT[441]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 36, “Facility Assessments,” and Chapter 82, “Intermediate Care Facilities for Persons with an Intellectual Disability,” Iowa Administrative Code.

These amendments change the timing and calculation of an intermediate care facilities for persons with an intellectual disability (ICF/ID) assessment. The change is to collect quarterly from the facilities based on paid claims, rather than withhold from claims monthly based on the prior period’s annual revenue.

In addition to the timing and calculation of the fee, penalty provisions for late payments are included. The penalties include a 1.5 percent fee for late submissions and include suspension of payments after three months of delinquency.

Provisions regarding Medicaid reimbursement to ICFs/ID for assessment fees paid are amended to reflect current practice, modified according to the change in the timing and calculation of the assessment. Fees assessed are not currently treated as an allowable cost, which would be subject to cost-based limits. Rather, ICF/ID reimbursement includes an add-on based on the assessments as currently calculated. The amendments provide for an add-on to the per diem reimbursement rate based on the annual assessments paid by a facility, divided by total annual patient days. Obsolete provisions regarding payments to state-operated facilities during the transition to the ICF/ID assessments are rescinded.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2775C** on October 12, 2016. The Department received no comments during the public comment period. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on December 14, 2016.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 249A.4 and 249A.21.

These amendments will become effective February 8, 2017.

The following amendments are adopted.

ITEM 1. Amend rule 441—36.1(249A) as follows:

**441—36.1(249A) Assessment of fee.** Intermediate care facilities for persons with an intellectual disability (ICFs/ID) licensed in Iowa under 481—Chapter 64, including facilities not certified to participate in the Medicaid program, shall pay a ~~monthly~~ quarterly fee to the department. Effective ~~January~~ July 1, 2008 ~~2016~~, the fee shall equal 5.5 percent of ~~the total revenue of the facility~~ actual paid claims, from all sources, for the facility’s preceding fiscal year ~~divided by the number of months of facility operation during the preceding fiscal year quarter~~.

ITEM 2. Amend rule 441—36.2(249A) as follows:

**441—36.2(249A) Determination and payment of fee ~~for facilities certified to participate in the Medicaid program~~.** ~~For facilities certified to participate in the Medicaid program,~~ For all ICFs/ID licensed in Iowa under 481—Chapter 64, including facilities not certified to participate in the Medicaid program, the fee shall be determined and paid as follows:

**36.2(1)** ~~The assessment for each facility fiscal year shall be based on the financial and statistical report for the facility’s preceding fiscal year submitted pursuant to rule 441—82.5(249A), as adjusted pursuant to 441—subrules 82.5(10) and 82.17(1).~~ Each facility shall pay the assessment to the department on a quarterly basis. The facility shall:

*a.* Use Form 470-5422, Intermediate Care Facilities for Individuals with an Intellectual Disability Assessment Calculation Worksheet, to calculate the quarterly fee due.

b. Submit Form 470-5422 and the quarterly fee no later than 30 days following the end of each calendar quarter.

36.2(2) The department shall notify each facility of the amount of the fee assessed for each fiscal year following submission of the financial and statistical report for the facility's preceding fiscal year. The fee is subject to adjustment based on adjustments to the financial and statistical report. The facility shall calculate the amount of the quarterly fee due by multiplying 5.5 percent by the facility's total ICF/ID payments for services received from all sources during the preceding quarter, including but not limited to:

- a. Medicaid managed care payments.
- b. Client participation payments.
- c. Medicaid fee-for-service payments.
- d. Private pay/insurance payments.
- e. Ancillary service payments.

36.2(3) ICFs/ID shall pay the monthly amount due to the department. If the department determines that an ICF/ID has underpaid or overpaid the fee, the department shall notify the ICF/ID of the amount of the unpaid fee or refund due. Such amount shall be due or refunded within 30 days of the issuance of the notice.

36.2(4) Rescinded IAB 6/4/08, effective 5/15/08. An ICF/ID that fails to pay the fee within the time frame specified in subrule 36.2(3) shall pay a penalty in the amount of 1.5 percent of the unpaid fee due for each month or portion of a month that the unpaid fee is overdue.

a. If the ICF/ID substantiates good cause beyond the facility's control for failure to make timely payment of the fee, the department shall waive the penalty or a portion of the penalty. For purposes of this subrule, "good cause" shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

b. Requests for a good-cause waiver must be submitted to the Iowa Medicaid enterprise, provider cost audit and rate setting unit, within 30 days of notice to the facility that the penalty is due.

36.2(5) If a fee has not been received by the department by the last day of the third month after the fee is due, the department shall suspend payment due the ICF/ID under the medical assistance program, including payments made on behalf of the medical assistance program by a contracted managed care organization.

ITEM 3. Rescind and reserve rule ~~441—36.3(249A)~~.

ITEM 4. Amend subrule 82.5(13) as follows:

82.5(13) Assessed fee. The fee assessed pursuant to 441—Chapter 36 shall not be an allowable cost for cost reporting and audit purposes. In lieu of treating the fee as an allowable cost, a per diem assessment amount is added to the reimbursement rate calculated under subrule 82.5(14), not subject to the maximum allowable base cost or maximum rate set at the eightieth percentile. The per diem assessment amount will be calculated by dividing the annual assessment paid by the reported total patient days.

a. For the purpose of implementing the assessment for facilities operated by the state, Medicaid reimbursement rates shall be recalculated effective October 1, 2003, as provided in paragraph "b."

b. For purposes of determining rates paid for services rendered after October 1, 2003, each state-operated facility's annual costs for periods before implementation of the assessment shall be increased by an amount equal to 6 percent of the facility's annual revenue for the preceding fiscal year.

[Filed 12/14/16, effective 2/8/17]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/17.